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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,038	11/10/2000	ROBERT A. KOCH	36968/202435	3243

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EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,038

Applicant(s)

KOCH, ROBERT A.

Examiner

Arrienne M. Lezak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Examiner notes that Claims 1, 3, 4, 6-8, 12, 14, 21-24 & 29 have been amended, Claims 2, 5, 13 & 30 have been cancelled and no Claims have been added. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 26 January 2004 as reiterated herein below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 6-12, 14-29 & 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent US 6,564,261 B1 to Gudjonsson.

4. Regarding Amended Claims 1, 12 and 24, Gudjonsson teaches a method, system and interface for identifying to a user an availability of members through their contact devices, (Abstract; Col. 2, lines 51-67; Col. 2, lines 1-63; Col. 34, lines 26-63; Col. 36, lines 41-46; Col. 38, lines 61-67; and Col. 39, lines 1-67), comprising:

- a database for storing profiles of all members of the communications circle, each profile identifying at least one contact device and availability of said device for each member, (Col. 28, lines 9-64);
- with each member's profile assigned a random and unique code number, and each member's profile requiring a password to access the profile,

(Col. 8, lines 47-65; Col. 11, lines 44-64; Col. 16, lines 7-47; & Col. 28, lines 9-64), (Examiner notes that user IDs are obviously unique and random to the user as a means of identifying a particular individual, wherein if the ID was not unique and random, there would be no means by which to distinguish between users);

- exchanging each member's code number and password amongst the other members to allow each member to access every other member's profile, (Col. 11, lines 44-64);
- a communications server for retrieving the profile from the database and for determining an availability of the contact device for each member in the communications circle, the communications server providing the profile information on the availability of the contact device to the user upon request, (Col. 2, lines 51-67; Col. 3, lines 1-62; and Col. 15, Table 1);
- receiving a first selection from the sender to verify a chosen member's communications presence information, (Col. 25, lines 43-63 – Carl chooses "voice chat");
- using the chosen member's code number to determine which of the chosen member's contact devices are available to receive the communication, (Col. 25, lines 43-63 – invite sent to Anne wherein the routing service notes that she is off-line but receiving calls at her GSM phone);

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- providing the communication presence information to the sender, (Col. 25, lines 43-63 – reply is sent to Carl including GSM number);
- receiving a second selection from the sender to initiate the communication with one of the chosen member's available contact devices, (Col. 25, lines 43-63 – Carl calls the number);
- wherein the user is able to determine which contact device is available by viewing the profile information, (graphical indicator), on the members of the communications circle and can initiate contact with any member having an available contact device (via selection of that contact device), (Figs. 8 & 9; Col. 3, lines 1-13; Col. 4, lines 31-38; Col. 8, lines 47-67; Col. 9, lines 1-22; Col. 11, lines 44-67; Col. 12; Col. 13, lines 1-18; and Cols. 23-26).

Thus, Claims 1, 12 & 24 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

5. Regarding Claims 3 and 14, Gudjonsson teaches a method, system and interface further comprising receiving a notification that the contact device associated with each member is active, (Col. 3, lines 1-13; Col. 8, lines 47-65; and Col. 11, lines 44-52). Thus, Claims 3 & 14 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

6. Regarding Claims 4, 16-19, 22 and 23, Gudjonsson teaches a method, system and interface further comprising connecting the user via a communication server, to one of the members in the communication circle, having the active contact device, (per

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pending Claims 4 and 16), via the Internet, (per pending Claim 17), an email message, (per pending Claim 18), a page, (per pending Claim 19), using an Internet-capable personal computer, (per pending Claim 22), and another Internet-capable communication appliances, (per pending Claim 23), (Col. 2, lines 51-67; Col. 3, lines 1-62). Thus, Claims 4, 16-19, 22 and 23 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

7. Regarding Claims 6 and 7, Gudjonsson teaches a method, system and interface wherein using the chosen member's code number to determine the availability of the contact device comprises querying the contact device, (per pending Claim 6), or querying the network provider associated with the contact device, (per pending Claim 7), (Col. 2, lines 51-67; Col. 3, lines 1-62; Col. 8, lines 47-67; and Col. 9, lines 1-61), Examiner again notes that the user ID is obviously and clearly the means by which users within the Gudjonsson system are identified. Thus, Claims 6 and 7 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

8. Regarding Claims 8 & 9, Gudjonsson teaches a method, system and interface wherein allowing the user to select the contact device comprises connecting the user to the contact device, (per pending Claim 8), or sending a message to the contact device, (per pending Claims 9 and 30), (Figs. 8 & 9; Col. 8, lines 47-67; Col. 9, lines 1-61; Col. 11, lines 44-67; Col. 12; Col. 13, lines 1-18; and Cols. 23-26). Thus, Claims 8 & 9 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

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9. Regarding Claims 10, 11, 15, 28 and 29, Gudjonsson teaches a method, system and interface wherein storing a profile for each member of the communications circle comprises enabling a plurality of contact devices to be stored for each member, (per pending Claims 10 and 28), and storing addressing and availability information for each contact device, (per pending Claims 11, 15 and 29), (Col. 28, lines 9-64). Thus, Claims 10, 11, 15, 28 and 29 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

10. Regarding Claims 20, 21 & 31-36, Gudjonsson teaches a method, system and interface wherein the contact device is a wireless device, (per pending Claim 20), and the user is connected via the communications server through a wireless network, (Col. 2, lines 51-67; Col. 3, lines 1-62), and wherein the interface is for display on a personal computer, (per pending Claim 31), a wireless device, (per pending Claim 32), a pager, (per pending Claim 33), a wireless telephone, (per pending Claim 34), (Abstract; Col. 3, lines 51-59; Col. 25, lines 6-9; and Col. 33, lines 6-48).

11. Gudjonsson does not specifically enumerate the use of an interactive television or a personal data assistant. To apply the functionalities inherent to the Gudonsson system to an interactive television device or personal data assistant, (per pending Claims 21, 35 & 36), would have been obvious to one of ordinary skill in the art at the time of invention be Applicant. Specifically, as noted above, Gudjonsson indicates the use of client devices, including but not limited to PCs and mobile phones, wherein the Internet and other communication sessions include, but are not limited to text chat, voice chat, web conference or pages, (Col. 3, lines 51-63). As a personal data assistant

is a form of portable personal computer and an interactive television is an Internet/web-type communication device, Examiner finds that to incorporate the Gudjonsson system upon the a personal data assistant or an Internet-capable interactive television would have been obvious in light of that which Gudjonsson discloses. Thus, Claims 20, 21 & 31-36 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

12. Regarding Claims 25-27, Gudjonsson teaches a method, system and interface wherein the communication section displays a name of each member in the communication circle, (per pending Claim 25), (Fig. 8; Col. 4, lines 31-33; and Col. 11, lines 44-52), the contact devices associated with each member, (per pending Claim 26), (Fig. 9; Col. 4, lines 34-38; Col. 12, lines 55-67; and Col. 13, lines 1-18), and a link for allowing the user to view the profile section, (per ending Claim 27), (Col. 12, lines 55-67; and Col. 13, lines 1-18). Thus, Claims 25-27 are found to be unpatentable over considerable consideration of the teachings of Gudjonsson.

Response to Arguments

13. Applicant's arguments filed 21 April 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how reconsideration avoids such references or objections.

14. Regarding Applicant's Rgument that Gudjonsson fails to teachthe uso and exchange of codes and passwords among users, Examiner respectfully disagrees noting Gudjonsson specifically uses unique used identities and authentication means for controlling user access and communication as noted herein above. Additionally, Examiner notes that Gudjonsson also provides for a first selection, (presence verification), and second selection, (communication initiation), as further noted herein above.

15. Moreover, Examiner notes that the Claims as amended are still anticipated by the prior art as the user is able to select which device or means by which other users will be contacted via an "invite", wherein the types of "invites" available are graphically indicated, (Figs. 8 & 9), wherein the "routing service" serves to send the invite after the user chooses the device, and wherein the routing service provides an alternative contact or notification means if the means chosen by the user are unavailable at the time. Examiner notes that the routing service does not choose the method by which the user sends the message, but rather allows for a means by which messages are received in the event that the user-chosen device is unavailable. In other words, the routing service serves to forward the messages as set up by the receiver as needed, (Col. 25, lines 6-67 & Col. 26, lines 1-36), which removes the need for the user to have specific knowledge of available receiver devices. Therefore, Examiner finds that Gudjonsson renders the claims unpatentable.

16. Thus, as Examiner has completely addressed Applicant's amendment, and finding Applicant's arguments do not show how the amended claims avoid such

references or objections, Examiner hereby maintains the rejection of all claims, in their entirety.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

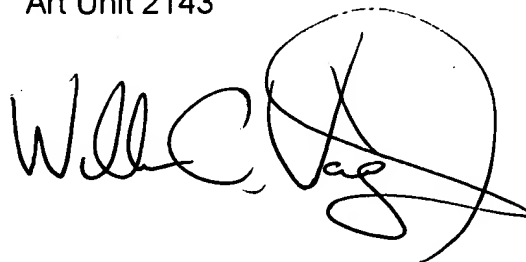
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML

Arrienne M. Lezak
Examiner
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A handwritten signature in black ink, appearing to read 'W.C. Vaughn, Jr.', with a large circular flourish at the end.

**WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER**